



Appeal Decision

Site visit made on 11 November 2024

by G D Jones BSc(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2024

Appeal Ref: APP/X5990/Y/24/3348188

The London Palladium, 7-8 Argyll Street, London W1F 7TF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by LW Theatres Limited against the decision of City of Westminster Council.
 - The application Ref 24/03363/LBC, dated 21 May 2024, was refused by notice dated 15 July 2024.
 - The application sought listed building consent for works described as “alterations to Great Marlborough Street buildings including restoration and redecoration of facades and installation of metal artwork screen. Display of large LED screen at high level” without complying with a condition attached to consent Ref 16/11351/LBC, granted on 14 March 2017.
 - The condition in dispute is No 5 which states that: The screen must only be used for the display of sequential static advertisements directly related to productions showing in the Theatre. The displays must not contain any motion video imagery and any message must remain static for the period of display. The duration of display of each static image must be no less than 30 seconds.
 - The reason for the condition is: In the interests of public safety and visual amenity as set out in S25, S28 and S41 of Westminster's City Plan: Strategic Policies that we adopted in January 2011 and DES 1, DES 8, TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.
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Decision

1. The appeal is dismissed and listed building consent is refused for the proposals described above.

Preliminary Matters

2. The evidence refers to another appeal decision made earlier this year, reference APP/X5990/Z/24/3344729 (the previous appeal). It concerned an appeal against the decision of the Council to refuse to grant express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for what appear to be the same proposals as those now before me.
3. Although the previous appeal decision letter and some of the details of that appeal form part of the evidence here, I am not aware of the full circumstances of that other appeal. While I am mindful of the need for consistency in decision-making on behalf of the Secretary of State, each decision must be made on its individual merits. So, while I have taken the previous appeal decision into account, I have assessed and determined the

current appeal on the basis of the evidence before me in the context of the relevant statutory framework.

4. In this latter regard it is worth emphasising that the previous appeal related to an application for advertisement consent whereas the current appeal concerns listed building consent. Accordingly, while the proposals under consideration may be the same, the relevant statutory context for assessing and determining the two appeals are markedly different.
5. As the current appeal is in respect to a proposal for which listed building consent is sought, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The reason for refusal refers to "this grade II listed building". Nonetheless, from the wider evidence it is clear that The London Palladium Theatre, where the existing advertisement is located, is graded at II*. I have assessed the proposals and determined the appeal accordingly.

Main Issue

7. The main issue is the effect that the proposed changes would have on the special interest of The London Palladium Theatre as a grade II* listed building.

Reasons

8. The London Palladium is a theatre of international renown. As a grade II* listed building its significance derives in large part from its architectural interest and its rich cultural history, including that associated with the stage door.
9. The appeal proposals seek to relax the terms on which images are permitted to be shown on an existing digital display located on a comparatively modern screening structure, close to the theatre's stage door on its Great Marlborough Street frontage. If the appeal were to be allowed, a wider range of images could be displayed, beyond those directly related to the theatre's productions as is currently permitted. Theatre related content would reduce to 50% of screentime, and 'community content' and 'commercial advertising' would be introduced, each having 25% of screentime. Additionally, the duration of the display of each static image would reduce from no less than 30 seconds to 12 seconds.
10. The appellant's evidence concludes that the magnitude of impact that would result from the proposals would be 'negligible'. The methodology employed, describes this as amounting to a 'barely discernible change in baseline conditions.' I am not convinced that this would be the case. Indeed, for the reasons identified by the Council, the level of harm to the significance of the listed building seems likely to be greater.
11. Nonetheless, as a decision-making tool, I have adopted the appellant's position in this regard as a benchmark. On this basis, while 'barely discernible', there would be at least some degree of harmful impact to the significance of the listed building. In the language of the National Planning Policy Framework (the Framework) this would fall within the category of 'less than substantial harm'.

12. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, the Framework indicates that this harm should be weighed against the public benefits of the proposal. To this end the appellant maintains that there would be a number of public benefits. I deal with these in turn.
13. The proposed changes to the advertisement would provide an additional source of revenue for The London Palladium. Any additional income generated could be used to help ensure that the building continues to be used for the purpose for which it was designed. For instance, via spending on maintenance of the building or invested into the theatre's business, thereby helping to ensure its viability for future generations.
14. Although these may be worthy objectives, there is no substantiated evidence to suggest that there is any prospect that they would not be achieved without the appeal scheme. Nor is there any mechanism before me that would ensure that any additional revenue would actually be put towards the achievement of these objectives. Accordingly, this matter carries no more than very limited weight as a public benefit.
15. While I note the submissions in terms of the proposals requiring no structural or physical change, these are not benefits as such. Rather, they are matters that would limit the degree of harm arising.
16. The promotion of community, cultural and sporting events via the display would be of some public benefit. This is largely limited in terms of the proposed 25% display time, albeit that it could be extended for use by the Council for the free promotion of six special events/campaigns each year and use of a screen in Leicester Square. Moreover, there is no substantiated evidence to illustrate or quantify how beneficial any such advertising would be to the events in question nor, in turn, to the causes that might benefit as a consequence. Therefore, this matter carries no more than limited weight as a public benefit.
17. The free promotion of charitable causes would also be of public benefit and I note the letters of support in this regard. Again, the public benefit would be limited in terms of the proposed 25% display time. Nor is there any mechanism before me that would ensure that use of the display by charities would be free of charge. Accordingly, this matter also carries no more than limited weight as a public benefit.
18. There is also no mechanism before me to ensure the proposed 'promotion of local and reputable businesses'. Indeed, it is not clear what this would mean in practice. Furthermore, even if it were to be considered to represent a public benefit in the terms of the Framework, it is reasonable to assume that the primary benefit would be of a private, commercial nature. Overall, therefore, this matter carries no more than very limited weight as a public benefit.
19. It appears to be common ground that the appeal proposals would result in an increase in business rates. However, these are not quantified. Given the nature of the proposals, they seem likely to be limited in value to the public purse, such that as a public benefit, this matter carries only limited weight.
20. It has also been suggested that the appeal proposals might act as a 'three-year case study for Regent Street vision'. However, there is no substantiated

evidence to suggest that this is needed. I also note the Council's submission that the site is not on Regent Street and some distance from it. This matter, therefore, can attract no more than very limited weight as a public benefit.

21. For the foregoing reasons, the total weight of the benefits would be no more than modest at most. As explained above, I have employed the lowermost level of harm within the scale of less than substantial harm as a decision-making benchmark. Nonetheless, the benefits are not collectively sufficient to outbalance the harm to the significance of the listed building. I have come to this conclusion bearing in mind that such harm should be given considerable importance and weight. Moreover, grade II* listed buildings are particularly important buildings of more than special interest, with only around 5.8% of listed buildings being at this grade.
22. The appeal scheme would, therefore, fail to preserve the special interest of The London Palladium Theatre as a Grade II* listed building. Although that identified harm would be limited, it is nonetheless important and attracts great weight. There are no other considerations before me that collectively outweigh the harm. It would also conflict with Policies 38 (Design principles), 39 (Westminster's heritage) and 40 (Townscape and architecture) of the Council's City Plan 2019-2040, April 2021.

Other Matters

23. Although it is not mentioned in the reason for refusal, the appeal site is located within Regent Street Conservation Area. Consequently, I have also had special regard to section 72(1) of the Act. The harm to the listed building, as outlined above, would result in a failure to preserve the character and appearance of this Conservation Area. However, given my conclusions in respect to the listed building, this does not alter the outcome of the appeal.
24. In addition to the previous appeal, I also note the evidence regarding other appeal decisions and advertisements. While I have taken these into account, they have not had a significant bearing on my decision. This is primarily because I am not familiar with all of the circumstances of those other cases, and, in any event, all appeal decisions must be made on their individual merits.

Conclusion

25. For the above reasons, I conclude that the appeal should be dismissed.

G D Jones

INSPECTOR